

§ 434.6

42 CFR Ch. IV (10–1–13 Edition)

§ 434.6 General requirements for all contracts and subcontracts.

(a) *Contracts.* All contracts under this part must include all of the following:

(1) Include provisions that define a sound and complete procurement contract, as required by 45 CFR part 74.

(2) Identify the population covered by the contract.

(3) Specify any procedures for enrollment or reenrollment of the covered population.

(4) Specify the amount, duration, and scope of medical services to be provided or paid for.

(5) Provide that the agency and HHS may evaluate through inspection or other means, the quality, appropriateness and timeliness of services performed under the contract.

(6) Specify procedures and criteria for terminating the contract, including a requirement that the contractor promptly supply all information necessary for the reimbursement of any outstanding Medicaid claims.

(7) Provide that the contractor maintains an appropriate record system for services to enrolled beneficiaries.

(8) Provide that the contractor safeguards information about beneficiaries as required by part 431, subpart F of this chapter.

(9) Specify any activities to be performed by the contractor that are related to third party liability requirements in part 433, subpart D of this chapter.

(10) Specify which functions may be subcontracted.

(11) Provide that any subcontracts meet the requirements of paragraph (b) of this section.

(12) Specify the following:

(i) No payment will be made by the contractor to a provider for provider-preventable conditions, as identified in the State plan.

(ii) The contractor will require that all providers agree to comply with the reporting requirements in § 447.26(d) of this subchapter as a condition of payment from the contractor.

(iii) The contractor will comply with such reporting requirements to the extent the contractor directly furnishes services.

(b) *Subcontracts.* All subcontracts must be in writing and fulfill the re-

quirements of this part that are appropriate to the service or activity delegated under the subcontract.

(c) *Continued responsibility of contractor.* No subcontract terminates the legal responsibility of the contractor to the agency to assure that all activities under the contract are carried out.

[48 FR 54020, Nov. 30, 1983, as amended at 67 FR 41095, June 14, 2002; 76 FR 32837, June 6, 2011]

Subpart B—Contracts with Fiscal Agents and Private Nonmedical Institutions

§ 434.10 Contracts with fiscal agents.

Contracts with fiscal agents must—

(a) Meet the requirements of § 434.6;

(b) Include termination procedures that require the contractors to supply promptly all material necessary for continued operation of payment and related systems. This material includes—

(1) Computer programs;

(2) Data files;

(3) User and operation manuals, and other documentation;

(4) System and program documentation; and

(5) Training programs for Medicaid agency staff, their agents or designated representatives in the operation and maintenance of the system;

(c) Offer to the State one or both of the following options, if the fiscal agent or the fiscal agent's subcontractor has a proprietary right to material specified in paragraph (b) of this section:

(1) Purchasing the material; or

(2) Purchasing the use of the material through leasing or other means; and

(d) State that payment to providers will be made in accordance with part 447 of this chapter.

§ 434.12 Contracts with private non-medical institutions.

Contracts with private nonmedical institutions must—

(a) Meet the requirements of § 434.6;

(b) Specify a capitation fee based on the cost of the services provided, in accordance with the reimbursement requirements prescribed in part 447 of this chapter; and